IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1018 (MS) OF 2006

Rattan Mani Dobhal,
S/o Shri Shankar Datt,
R/o Shiv Bhawan Manohar Gali,
Khadkhadi Haridwar,
District-Haridwar. .....Petitioner.

Versus

1. District Judge, Haridwar,
   District-Haridwar.
2. Shiv Bhawan Shiv Mandir Trust,
   Manohar Gali Khadkhadi Haridwar,
   Through Shri Yogesh Kumar,
   S/o Shri Banarshi Das,
   Managing Trustee of aforesaid Trust.
3. Yogendra Kumar, S/o Shri Banarshi Das,
   Managing Trustee of aforesaid Trust
   R/o 10-A, New Mandi Muzaffarnagar.
4. Naresh Kumar,
5. Madan Gopal,
   both sons of Shri Manohar Lal,
   Both R/o New Mandi Muzaffarnagar.
6. Smt. Pisto Devi, W/o Shri Banarshi Das,
   R/o 10-A, New Mandi, Muzaffarnagar.
7. Sopatrai,
8. Shiv Kumar,
   Both sons of Shri Kishan Lal,
   Both R/o Fajalka, District-Firojpur.
9. Satish Kumar, Shri Hari Ram,
   R/o Fajalka, District-Firojpur. .....Respondents.

Dated: 03.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Lok Pal Singh, Advocate for the petitioner and Standing Counsel for the respondent no. 1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order-dated 17.07.2006 passed by the respondent no. 1 (Annexure No. 5 to the writ petition).

Briefly stated, the proceedings for vacancy were initiated and during that proceeding, the order was passed by the City Magistrate on 16th November, 1998, whereby release application was rejected observing that the proceeding under U.P. Act No. 13 of 1972 are not maintainable.

The landlord went in Revision. The revisional Court vide order dated 17th July, 2006 has remanded the matter to the Rent Control and Eviction Officer for re-hearing of the matter.

Since the entire matter has been remanded to the Rent Control Eviction Officer, for fresh consideration it will be open for the Rent Control and Eviction Officer to record a finding as to whether the provisions of Section 12 of the U.P. Act No. 13 of 1972 are invoked.

However, Article 226/227 of the Constitution of India cannot be invoked against the remand order. However, it will be open for the petitioner to challenge the order passed by the Rent Control and Eviction Officer in appropriate forum, which shall be decided in accordance with law.

Consequently, writ petition lacks merit and is dismissed. No order as to costs.

(Rajesh Tandon, J.)

03.08.2006

Rathour